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6 UNITED STATES DISTRICT COURT

7 DISTRICT OF NEVADA

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9 CECILIA GUARDIOLA,

Case No. 3:12-cv-00295-LRH-VPC

10 Plaintiff,

11 v.

ORDER

12 UNITED STATES OF AMERICA,

13 Defendant.

14 Plaintiff Cecilia Guardiola sued Renown Health, Renown Regional Medical Center, and
15 Renown South Meadows Medical center in a *qui tam* suit under the False Claims Act on behalf
16 of the United States of America. ECF Nos. 1, 17, 107. Guardiola and the United States (a
17 nonparty) settled the underlying claims with the Renown defendants. ECF No. 183, Ex. 1. The
18 settlement agreement reserved Guardiola's right to seek a share of any recovery made by the
19 United States from the Renown defendants, including any recovery received from an "alternate
20 remedy"—a remedy process other than this civil suit. *Id.* The parties then stipulated to the
21 dismissal of the Renown defendants, which the court approved.¹ See ECF No. 182, 183, 190.

22 Guardiola moved for a share of the recovery received from an alternate remedy by the
23 United States. ECF No. 179. However, the court denied the motion for lack of jurisdiction over
24 the United States. ECF No. 190. Guardiola then moved for leave to file a third amended
25 complaint. ECF No. 191. The court denied the motion as futile based on the United States'
26 argument for sovereign immunity. ECF No. 197. The United States has since changed its

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28 ¹ The court approved of the parties' stipulation in ECF No. 190. See ECF No. 190. The court then granted Guardiola relief from ECF No. 190. ECF No. 208. To the extent that the order contained in ECF No. 208 unwound the court's approval of the stipulation, the court now clarifies that the stipulation and the court's approval remains valid.

1 position, resulting in the court vacating the order that denied Guardiola's motion for leave to file
2 a third amended complaint. *See* ECF No. 208. Given the government's change in its position, the
3 court now grants Guardiola's motion for leave to file a third amended complaint.

4 IT IS THEREFORE ORDERED that Cecilia Guardiola's motion for leave to file a third
5 amended complaint (ECF No. 191) is **GRANTED**. The court orders the clerk of the court to file
6 the third amended complaint at ECF No. 191, Exhibit A, and to make the following changes to
7 the parties: list Cecilia Guardiola as the sole plaintiff and list the United States of America as the
8 sole defendant. The United States of America may file a dispositive motion under Federal Rule
9 of Civil Procedure 12(b)(6) within twenty-one days of the filing of the third amended complaint.

10 IT IS FURTHER ORDERED that this matter is **REFERRED** to Magistrate Judge Cooke
11 for the purpose of a scheduling conference.

12 IT IS FURTHER ORDERED that the caption in this matter shall now read: Cecilia
13 Guardiola, plaintiff, v. United States of America, defendant.

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15 IT IS SO ORDERED.

16 DATED this 14th day of November, 2017.

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19 LARRY R. HICKS
UNITED STATES DISTRICT JUDGE